STATE OF MICHIGAN

COURT OF APPEALS

OLD KENT BANK,

Plaintiff-Appellee,

v

MONTE BABE, INC., CHARLES MONTE, and PATRICIA V. MONTE,

Defendants-Appellants.

UNPUBLISHED
December 11, 2001

No. 221894
Grand Traverse Circuit Court
LC No. 98-017737-CK

Before: Holbrook, Jr., P.J., and Cavanagh and Meter, JJ.

PER CURIAM.

In this case involving a default by defendants on three promissory notes, defendants appeal by right from the trial court's grant of summary disposition to plaintiff under MCR 2.116(C)(10). We affirm.

Defendants first argue that the trial court erred in granting summary disposition because plaintiff had been paid in full and therefore suffered no damages and had no basis for a cause of action. We review de novo a trial court's grant of summary disposition. *Crown Technology Park v D&N Bank, FSC*, 242 Mich App 538, 546; 619 NW2d 66 (2000).

Defendants' argument is so poorly briefed that we need not even address it. See generally *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999), and *People v Kelly*, 231 Mich App 627, 640-641; 588 NW2d 480 (1998). Nevertheless, we do not agree with the argument. Indeed, the evidence clearly demonstrated that *even considering and offsetting* the payment plaintiff received from the Small Business Administration (SBA), which had guaranteed two of the notes, plaintiff was owed additional money.

Moreover, the two promissory notes that were guaranteed by the SBA each contained the following language:

> The Undersigned acknowledges and understands that if the Small Business Administration (SBA) enters into, has entered into, or will enter into, a Guaranty Agreement, with Lender or any other lending institution, guaranteeing a portion of Debtor's liabilities, the Undersigned agrees that it is not a coguarantor whith [sic]

> SBA and shall have no right of contribution against SBA. *The Undersigned further agrees that all liability hereunder shall continue notwithstanding payment by SBA under its Guaranty Agreement to the other lending institution*. [Emphasis added.]

Unambiguous contracts must be enforced as written. *Shaffner v City of Riverview*, 154 Mich App 514, 520; 397 NW2d 835 (1987). Under the above provision, defendants' obligations under the two SBA guaranteed notes could not be offset by the SBA's payment to plaintiff. Plaintiff had not been paid in full under any reasonable reading of the evidence, and defendants' appellate argument therefore must fail.

Next, defendants argue, in essence, that because the SBA had paid plaintiff on two of the promissory notes, the SBA, and not plaintiff, was the real party in interest for purposes of the instant lawsuit. Again, the argument is so poorly briefed that we need not even address it. *Prince*, *supra* at 197; *Kelly*, *supra* at 640-641. Nonetheless, the argument is without merit. Under the Michigan Uniform Commercial Code, the holder of a note has the right to enforce it. MCL 440.3301. A "'[h]older,' with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession." MCL 440.1201(20). In this case, the identified person was plaintiff, and plaintiff was in possession of the notes. It therefore had the right to enforce the notes.

Further, a real party in interest is one who is vested with the right of action on a given claim, although the beneficial interest may be in another. See *Weston v Dowty*, 163 Mich App 238, 242-243; 414 NW2d 165 (1987). Here, the above-quoted contractual language clearly stated that "all liability hereunder shall continue notwithstanding payment by SBA under its Guaranty Agreement to the other lending institution." Plaintiff was vested with the right of action on the notes, and defendants continued to be liable to plaintiff despite the payments by the SBA.

Affirmed.

/s/ Donald E. Holbrook, Jr.
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter